



U.S. Department of Justice

United States Attorney  
Southern District of New York

The Silvio J. Mollo Building  
One Saint Andrew's Plaza  
New York, New York 10007

December 4, 2023

**VIA ECF**

The Honorable Paul G. Gardephe  
United States District Judge  
Southern District of New York  
40 Foley Square  
New York, New York 10007

Re: *United States v. Bradley Pierre, et al.*,  
22 Cr. 19 (PGG)

Dear Judge Gardephe:

The Government writes in response to defendant William Weiner's letter requesting multiple types of relief. *See* Dkt. 278 (the "Motion"). Defendant Weiner once again has filed a motion seeking Court action regarding discovery and disclosure without first conferring with the Government. This is a waste of judicial resources given that the parties can and should resolve these types of issues on their own. The Government requests that the Court order the parties to confer prior to filing letters regarding discovery and disclosure in the future.

Had counsel conferred with the Government prior to filing the Motion, the Government would have told counsel the following:

- 1) The Government is aware of the requirements of grand jury subpoenas and will not issue such subpoenas without a good faith basis;
- 2) The Government is aware of the requirements of trial subpoenas and uses the trial date of January 16, 2024 on all such subpoenas;
- 3) The Government has produced the subpoena returns in its possession. The Government will produce any additional returns as soon as they are received or the Government becomes aware of them;
- 4) The Government will confer with defense counsel regarding a reasonable date for the disclosure of an Exhibit List, Witness list, and 404(b) disclosure. However, counsel knows that December 8, 2023 is an unreasonable deadline. This is approximately 5 weeks before trial, and the Government is still deciding which witnesses to call and exhibits to use. Counsel further does not need these lists at such an arbitrarily early date to prepare motions in limine. Counsel has been in possession of the bulk of the 3500 for almost a year and a half, and the Government has conferred with counsel multiple times about what areas of the discovery are relevant. It is unreasonable for

counsel to demand that the Government—with four days' notice—prepare Exhibit Lists and Witness Lists 5 weeks in advance of trial. In the Government's experience, the ordinary practice in this district is providing such lists one week or less before trial.<sup>1</sup> The Government believes that one week is appropriate here.

- 5) The Government has always intended to produce remaining *Giglio* and 3500 materials by January 2, 2024. The Government has and will produce *Brady* material as soon as the Government becomes aware of it.

Lastly, the Government notes that all deadlines should be reciprocal on the parties. Accordingly, defense counsel should be required to produce Exhibit Lists, Witness Lists, and 3500 for defense witnesses at the same time as the Government. Defense counsel should also be required to produce exhibits simultaneously with the Government. The Government and the Court should not see defense exhibits for the first time during trial or cross-examination.

Respectfully submitted,  
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<sup>1</sup> See, e.g., Individual Rules of the Honorable Valerie E. Caproni, [https://www.nysd.uscourts.gov/sites/default/files/practice\\_documents/VC%20Caproni%20External%20Practices%20in%20Criminal%20Cases%20%282023-05-17%29v3.pdf](https://www.nysd.uscourts.gov/sites/default/files/practice_documents/VC%20Caproni%20External%20Practices%20in%20Criminal%20Cases%20%282023-05-17%29v3.pdf) (requiring disclosure of exhibits 1 week before trial); Individual Rules of the Honorable J. Paul Oetken, [https://www.nysd.uscourts.gov/sites/default/files/practice\\_documents/JPO%20-%20Oetken%20-%20Individual%20Practices%20in%20Criminal%20Cases%20Feb%2012%202020.pdf](https://www.nysd.uscourts.gov/sites/default/files/practice_documents/JPO%20-%20Oetken%20-%20Individual%20Practices%20in%20Criminal%20Cases%20Feb%2012%202020.pdf) (requiring disclosure 2 days before trial); Individual Rules of the Honorable Jed S. Rakoff, [https://www.nysd.uscourts.gov/sites/default/files/practice\\_documents/JSR%20Rakoff%20Rules%20Update%202023-11-27.pdf](https://www.nysd.uscourts.gov/sites/default/files/practice_documents/JSR%20Rakoff%20Rules%20Update%202023-11-27.pdf) (requiring disclosure of exhibits 3 days before trial).